

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

|                                      |   |                           |
|--------------------------------------|---|---------------------------|
| In the Matter of                     | ) |                           |
|                                      | ) |                           |
| VANESSA CINTRON, NOBLE VENTURES      | ) | FOIA Control No. 2014-282 |
| INC.                                 | ) |                           |
|                                      | ) |                           |
| On Request for Inspection of Records |   |                           |

**MEMORANDUM OPINION AND ORDER**

**Adopted: September 24, 2014**

**Released: September 24, 2014**

By the Commission:

1. This order dismisses as untimely an application for review (AFR) filed on June 12, 2014, by Vanessa Cintron of Noble Ventures Inc.<sup>1</sup> Ms. Cintron challenges OMD's May 9, 2014 decision denying in part her Freedom of Information Act (FOIA) request and assessing processing fees. Ms. Cintron's AFR is dismissed as untimely because it was filed three days after the due date for an application for review.<sup>2</sup> While losing the right of appeal when a deadline is missed by a brief time "may seem unduly harsh . . . short of exceptional circumstances (which are not present here), courts have generally respected statutory and regulatory deadlines."<sup>3</sup> We have consistently dismissed late-filed FOIA AFRs and do so here.<sup>4</sup>

2. ACCORDINGLY, IT IS ORDERED that the AFR filed by Vanessa Cintron IS DISMISSED. Ms. Cintron may seek judicial review of this action pursuant to 5 U.S.C. § 552(a)(4)(B).<sup>5</sup>

<sup>1</sup> Letter from Vanessa Cintron, FOIA Coordinator, Noble Ventures Inc. to Jonathan Sallet, General Counsel, FCC (filed June 12, 2014).

<sup>2</sup> Under section 0.461(j) of our rules, applications for review of FOIA decisions must be filed within 30 days of the date of the initial response. *See* 47 C.F.R. §§ 0.461(j); 1.115(d) (generally applicable 30-day deadline for filing AFR). Thus, Ms. Cintron was required to file an AFR by June 9, 2014. Ms. Cintron's AFR is dated June 4, 2014, but was not received until June 12, 2014. Under the Commission's rules, documents are considered to be filed on their receipt. *See* 47 C.F.R. § 1.7.

<sup>3</sup> *Hamilton Securities Group, Inc. v. Dep't of Housing & Urban Dev.*, 106 F.Supp.2d 23, 28 (D.D.C. 2003) (FOIA administrative appeal filed one day after 30-day filing deadline is late-filed, *citing U.S. v. Locke*, 471 U.S. 84, 100 (1985)), *aff'd* 2001 WL 238162 (D.C. Cir. 2001). *See BDPCS, Inc. v. FCC*, 351 F.3d 1177, 1184 (D.C. Cir. 2003); *21<sup>st</sup> Century Telesis Joint Venture v. FCC*, 318 F.3d 192, 199-200 (D.C. Cir. 2003).

<sup>4</sup> *See, e.g., The Consumer Law Group*, 28 FCC Rcd 684 ¶ 5 (2013) (dismissing application for review of a FOIA decision filed three days late); *Michael C. Olson*, 13 FCC Rcd 20593 ¶ 1 (1998) (dismissing application for review filed one day late).

<sup>5</sup> We note that as part of the Open Government Act of 2007, the Office of Government Information Services (OGIS) was created to offer mediation services to resolve disputes between FOIA requesters and Federal agencies as a non-exclusive alternative to litigation. Using OGIS services does not affect Ms. Cintron's right to pursue litigation. Ms. Cintron may contact OGIS in any of the following ways:

Office of Government Information Services  
National Archives and Records Administration  
Room 2510

(continued....)

The officials responsible for this action are the following: Chairman Wheeler, and Commissioners Clyburn, Rosenworcel, Pai, and O’Rielly.

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch  
Secretary

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